

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

SHANEELA R. OMAR
Plaintiff

VS.

**REMINGTON COLLEGE - HOUSTON,
CAMPUS, INC. d/b/a REMINGTON
COLLEGE – NORTH HOUSTON
CAMPUS**

Defendant.

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CIVIL ACTION NO. 4:10-cv-02094

DEFENDANT’S NOTICE OF REMOVAL

Defendant, Remington College – Houston Campus, Inc. d/b/a Remington College – North Houston Campus (“Remington College”), submits this Notice of Removal pursuant to the provisions of 28 U.S.C. §§ 1441 and 1446 and, as cause therefore, shows the Court as follows:

1. Remington College was sued by Plaintiff, Shaneela R. Omar (“Plaintiff”), in a civil action pending in the 61st Judicial District Court of Harris County, Texas, styled *Shaneela R. Omar v. Remington College – Houston Campus, Inc. d/b/a Remington College – North Houston Campus*, Cause No. 2010-28865. A copy of Plaintiff’s Original Petition filed with the State Court is attached to this Notice as part of Exhibit B, is incorporated herein by reference, and is made a part of this Notice of Removal.

2. Plaintiff’s Original Petition was filed on May 7, 2010. Remington College was served with Plaintiff’s Original Petition on May 21, 2010. Therefore, this Notice of Removal is timely filed under 28 U.S.C. § 1446(b), within thirty (30) days of receipt of the initial pleading setting forth a claim for relief. *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 119 S. Ct.

1322, 1328-29 (1999); *see also Bd. of Regents of Univ. of Texas v. Nippon*, 478 F.3d 274, 278 (5th Cir. 2007).

FEDERAL QUESTION JURISDICTION

3. This suit involves a controversy arising, if at all, under the laws of the United States, over which the District Courts of the United States have original jurisdiction pursuant to the provisions of 28 U.S.C. § 1331, and it is one that may be removed to this Court by Remington College pursuant to the provisions of 28 U.S.C. § 1441(b).

4. Plaintiff is suing Remington College to recover allegedly unpaid overtime compensation and for retaliation under the Fair Labor Standards Act (the “FLSA”), 29 U.S.C. § 200 *et seq.* Specifically, Plaintiff asserts that Remington College failed to pay her at the rate of one and one-half times her regular rate of pay for all hours Plaintiff worked in excess of forty (40) hours a week in violation of the FLSA. *Plaintiff's Original Petition*, Section V. Additionally, Plaintiff alleges that Remington College terminated her employment in retaliation for her complaints regarding her allegedly unpaid overtime compensation in violation of Section 215(a)(3) of the FLSA. *Plaintiff's Original Petition*, Section VI. Therefore, removal of this action to this Court is proper.

PROCEDURAL MATTERS

5. Remington College is the sole defendant in this lawsuit, and Remington College consents to removal.

6. The State Court has not signed any orders.

7. Under 28 U.S.C. § 1441(a), venue of the removed action is proper in this Court because the above-referenced action is pending in Harris County, Texas.

8. Pursuant to Local Rule 81, Remington College has attached the following documents:

- (a). all executed process in this case (attached as Exhibit A);
- (b). all pleadings asserting causes of action, *e.g.*, petitions, counterclaims, cross-actions, third-party actions, interventions and all answers to such pleadings (attached as Exhibit B);
- (c). the docket sheet (attached as Exhibit C);
- (d). an index of matters being filed (attached as Exhibit D); and
- (e). a list of all counsel of record, including addresses, telephone numbers, and parties represented (attached as Exhibit E).

9. Pursuant to 28 U.S.C. § 1446(d), Remington College will promptly:

- (a) Provide Plaintiff with written notice of the filing of this Notice of Removal; and
- (b) File a copy of this Notice of Removal with the Clerk of the 61st Judicial District Court of Harris County, Texas, where this action is currently pending.

WHEREFORE, PREMISES CONSIDERED, Defendant, Remington College – Houston Campus, Inc. d/b/a Remington College – North Houston Campus prays that the above action, now pending against it in the 61st Judicial District Court of Harris County, Texas, be removed to this Court.

Respectfully submitted,

By: /s/ David M. Gregory

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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of June, 2010, a true and correct copy of the above and foregoing was served upon counsel for Plaintiff by certified mail, return receipt requested. The service copy was addressed as follows:

Peter Costea
Three Riverway, Suite 1800
Houston, Texas 77056

/s/ David M. Gregory
Attorney for Defendant